



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/298,579 04/23/99 DUFFY

C CS1055#SP

BRUCE S SHAPIRO - TW199
PATENT DEPARTMENT
THE BLACK & DECKER CORPORATION
701 EAST JOFFA ROAD
TOWSON MD 21286

QM12/1026

EXAMINER

BANKS, D

ART UNIT

PAPER NUMBER

3723

DATE MAILED:

10/26/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/298,579

Applicant(s)

DUFFY

Examiner
Derris H. Banks

Group Art Unit
3723



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-9 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-9 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3723

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites "...a carrier plate mounted on the drive unit and driven thereby.."

Applicant's specification states on page 2, lines 15-17, "...a drive unit (2) including an electric motor (4) located in a housing (6) and a drive shaft (8)." Applicant's claimed invention does not agree with applicant's disclosed invention. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 6 & 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergner et al.

Art Unit: 3723

Bergner et al. discloses a power tool comprising: a drive unit (col. 2, lines 50-67) having an electric motor (3) and a drive shaft (10); a bearing (13) eccentrically mounted (via. connection of eccentric pin 12) on the drive shaft (10); a carrier plate (9) mounted on the bearing (13) (Fig. 1) (col. 2, lines 64-67); and a platen (8) for mounting on the carrier (9) characterized in that the carrier plate (9) is provided with a first engagement means (Fig. 8) and the platen is provided with a second engagement means (Fig. 9) to engage with the first engagement means (Fig. 8); characterized in that the first engagement means (Fig. 8) comprises one or more apertures (48-53) (col. 4, lines 15-17) and the second engagement means comprises one or more hook members (24-24); said power tool (1) is a sander;

a carrier plate (9) mounted on the drive unit (col. 2, lines 63-67) and driven thereby, said carrier plate (9) including a plurality of holes (Fig. 8 or col. 4, lines 13-21), each said hole having a substantially horizontal platform (e.g., such as the upper surface of carrier plate (9), as shown by Figs. 3 & 13) extending from one side of the holder (9); a platen (8) including a plurality of projections (24) (Figs. 9, 14 & 15) extending from an upper surface thereof, each projection (24) corresponding to one said hole (Fig. 8 or col. 4, lines 13-21) and including a hook (Figs. 3 & 13) (col. 4, lines 31-40); wherein, said platen (8) is removably secured on said carrier (9) with each projection extending through a corresponding hole with said hook resting upon said platform to maintain said platen (8) on said carrier (9) (Fig. 3).

Art Unit: 3723

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergner et al. in view of Thomas et al.

Bergner et al. discloses the claimed invention except for the first and second engagement means comprising a bayonet fitting. Thomas et al. teaches that it is known in the art to utilize an orbital power tool comprising a bayonet-type engagement means (Figs. 8 & 14) in association with a platen assembly (25) as stated at column 9, lines 35-51. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the concept of the bayonet-type engagement means of Thomas et al. instead of the snap-fit engagement means of Bergner et al., since such a modification would have required no auxiliary tools for tool exchange or placement.

With regards to claims 3-5, please refer to 35 USC 102 rejection above.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergner et al. in view of Dicke.

Bergner et al. discloses the claimed invention except for the first and second engagement means comprising a bayonet fitting. Dicke teaches that it is known in the art to utilize an in-line

Art Unit: 3723

sander comprising a platen (90) for mounting on a carrier plate (60) characterized in that the carrier plate (60) is provided with a first engagement means (Fig. 5) and the platen (90) is provided with a second engagement means (Fig. 5) to engage with the first engagement means (Fig. 5) by rotation of the platen (90) relative to the carrier plate (60), wherein the engagement means together comprise a bayonet fitting, as stated at column 4, lines 12-38. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the concept of the bayonet-type engagement means of Dicke instead of the snap-fit engagement means of Bergner et al., since such a modification would have required no auxiliary tools for tool exchange or placement.

With regards to claims 3-5, please refer to 35 USC 102 rejection above.

Allowable Subject Matter

8. Claims 8 & 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. C. R. Stelljes et al.; Frank et al.; A. Block; and EP '491,162.

Art Unit: 3723

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derris H. Banks whose telephone number is (703) 308-1745 or Fax number (703) 305-3579.

Derris Holt Banks
Patent Examiner

dhb

September 14, 1999

A handwritten signature in black ink, appearing to read 'DHB', with a long horizontal flourish extending to the right.